United Nations E/CN.15/2015/17

Economic and Social Council

Distr.: General
9 March 2015

Original: English

Commission on Crime Prevention and Criminal Justice
Twenty-fourth session
Vienna, 18-22 May 2015
Item 6 of the provisional agenda*
Use and application of United Nations standards and norms in crime prevention and criminal justice

Report on the meeting of the Expert Group on the Standard Minimum Rules for the Treatment of Prisoners held in Cape Town, South Africa, from 2 to 5 March 2015

I. Introduction

1. The Commission on Crime Prevention and Criminal Justice established the Expert Group on the Standard Minimum Rules for the Treatment of Prisoners at the request of the General Assembly[1] to exchange information on best practices, as well as national legislation and existing international law, and on the revision of the existing United Nations standard minimum rules for the treatment of prisoners so that they reflect recent advances in correctional science and best practices.

2. In the course of three meetings, held in Vienna from 31 January to 2 February 2012 (E/CN.15/2012/18), in Buenos Aires from 11 to 13 December 2012 (E/CN.15/2013/23) and in Vienna from 25 to 28 March 2014 (E/CN.15/2014/19 and Corr.1), the Expert Group made progress in identifying thematic areas and specific rules for revision and in drafting specific proposals for some of the rules.

3. The following nine thematic areas and respective rules were identified for revision upon completion of the first two meetings of the Expert Group and were taken into consideration by the General Assembly in paragraph 5 of its resolution 68/190:

(a) Respect for prisoners' inherent dignity and value as human beings (rules 6, para. 1; 57-59; and 60, para. 1);

* E/CN.15/2015/1.
[1] Resolution 65/230, para. 10.

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(b) Medical and health services (rules 22-26; 52; 62; and 71, para. 2);

(c) Disciplinary action and punishment, including the role of medical staff, solitary confinement and reduction of diet (rules 27, 29, 31 and 32);

(d) Investigation of all deaths in custody, as well as any signs or allegations of torture or inhuman or degrading treatment of prisoners (rules 7 and proposed rules 44 bis and 54 bis);

(e) Protection and special needs of vulnerable groups deprived of their liberty, taking into consideration countries in difficult circumstances (rules 6 and 7);

(f) Right of access to legal representation (rules 30; 35, para. 1; 37; and 93);

(g) Complaints and independent inspection (rules 36 and 55);

(h) Replacement of outdated terminology (rules 22-26, 62, 82 and 83 and various others);

(i) Training of relevant staff to implement the Standard Minimum Rules (rule 47).

4. At its third meeting, the Expert Group reached agreement on the amended text of rules 6, 22, 27, 30, 34 bis and 57-60 and discussed, but did not yet agree on, the amended text of rules 22, 29, 30, 37 bis and 47.

5. In its consideration of the report of the third meeting of the Expert Group (E/CN.15/2014/19 and Corr.1), the Commission welcomed the progress made by the Expert Group and stressed that any amendments to the rules should not lower current standards.[2] On the recommendation of the Commission, the General Assembly adopted resolution 69/192, in which it, inter alia:

(a) Reiterated that any changes to the Standard Minimum Rules for the Treatment of Prisoners[3] should not lower any of the existing standards but should reflect the recent advances in correctional science and good practices, so as to promote safety, security and humane conditions for prisoners;

(b) Recognized the need for the Expert Group to continue to take into account the social, legal and cultural specificities, as well as human rights obligations, of Member States;

(c) Noted that the revision process should maintain the existing scope of application of the Standard Minimum Rules.

6. The General Assembly, in paragraph 11 of its resolution 69/192, decided to extend the mandate of the Expert Group, authorizing it to continue its work, with the aim of reaching a consensus, and to present a report to the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice, for the information of the workshop on the role of the United Nations standards and norms in crime prevention and criminal justice in support of effective, fair, humane and accountable criminal justice systems, and to the Commission at its twenty-fourth session for

[2] See *Official Records of the Economic and Social Council, 2014, Supplement No. 10* (E/2014/30), para. 65.

[3] *Human Rights: A Compilation of International Instruments*, Volume I (First Part), *Universal Instruments* (United Nations publication, Sales No. E.02.XIV.4 (Vol. I, Part 1)), sect. J, No. 34.

consideration. In paragraph 11 of its resolution 69/172, the Assembly invited the Expert Group to continue its work and to conclude the review and update of the Standard Minimum Rules.

7. In paragraph 12 of its resolution 69/192, the General Assembly invited the bureau of the third meeting of the Expert Group to continue to be involved in the revision of the rules by preparing, with the assistance of the Secretariat, a revised consolidated working paper, in all official languages of the United Nations, consisting of the draft revised rules, which should reflect the progress achieved so far, including the recommendations made by the Expert Group at its meetings held in Buenos Aires in 2012 and in Vienna in 2014, also taking into account proposals for revision put forward by Member States in relation to the areas and rules identified by the Assembly in paragraph 6 of its resolution 67/188, for submission to and consideration by the Expert Group at its next meeting.

8. The fourth meeting of the Expert Group was held in Cape Town, South Africa, from 2 to 5 March 2015, with extrabudgetary resources provided by the Government of South Africa. Pursuant to paragraphs 10 and 11 of General Assembly resolution 69/192, this report will be presented to the Thirteenth Congress for the information of the workshop on the role of United Nations standard and norms in crime prevention and criminal justice, as well as to the Commission at its twenty-fourth session for consideration.

II. Recommendations

9. Having reached consensus on the revision of the Standard Minimum Rules for the Treatment of Prisoners and having taken due account of the nine thematic areas and respective rules identified for revision in its previous meetings, the Expert Group recommends that the Commission submit the entire set of revised Standard Minimum Rules for the Treatment of Prisoners for approval by the Economic and Social Council and subsequent adoption by the General Assembly as the "United Nations Standard Minimum Rules for the Treatment of Prisoners", to be known as "the Mandela Rules", to honour the legacy of the late President of South Africa, Nelson Rolihlahla Mandela, who spent so many years of his life in prison.

10. The Expert Group also recommends that the Commission consider recommending that the General Assembly extend the scope of Nelson Mandela International Day (18 July)[4] to be also known as Mandela Prisoners' Rights Day.

11. The Expert Group entrusted the Secretariat, under the supervision of the bureau, with the task of ensuring consistency between the revised rules and the entire set of the Standard Minimum Rules, as well as the task of verifying the adequacy of the relocation of rules. For consistency purposes, changes of terms in the revised rules should be reflected, where appropriate, in the terms used in rules that were not considered for revision.

12. The Spanish-speaking delegations recommended that the bureau be consulted prior to the finalization of the Spanish translation of the revised rules to ensure the accuracy of the translation in Spanish.

[4] See General Assembly resolution 64/13.

III. Organization of the meeting

A. Opening

13. The fourth meeting of the Expert Group was opened by Britta Rotmann (South Africa).

B. Attendance*

14. The meeting was attended by 90 representatives of 41 Member States: Argentina, Bahrain, Belarus, Botswana, Brazil, Canada, China, Finland, France, Georgia, Germany, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Italy, Japan, Jordan, Lebanon, Mozambique, Nigeria, Norway, Paraguay, Poland, Qatar, Russian Federation, Senegal, South Africa, Sri Lanka, Sudan, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay and Zambia.

15. The Office of the United Nations High Commissioner for Human Rights was represented at the meeting.

16. The following institutes of the United Nations crime prevention and criminal justice programme network were represented at the meeting: International Scientific and Professional Advisory Council and the Raoul Wallenberg Institute of Human Rights and Humanitarian Law.

17. The World Health Organization (Regional Office for Europe), a specialized agency in the United Nations system, was represented at the meeting.

18. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of the Council of Europe and the International Committee of the Red Cross were represented at the meeting.

19. Nine non-governmental organizations in consultative status with the Economic and Social Council were represented at the meeting.

20. Several individual experts participated as observers.

C. Election of officers

21. The Expert Group elected the following officers:

Chair:	Justice Dunstan Mlambo (South Africa)
Vice-Chairs:	Mariola Grochulska (Poland)
	Nathalie Peter Irigoin (Uruguay)
	Christine Cline (United States of America)
Rapporteur:	Vongthep Arthakaivalvatee (Thailand)

* For the complete list of participants, see UNODC/CCPCJ/EG.6/2015/INF.1.

D. Adoption of the agenda and organization of work

22. At the opening meeting, on 2 March 2015, the Expert Group adopted the following agenda:

1. Opening of the meeting.
2. Election of officers.
3. Adoption of the agenda and organization of work.
4. Preliminary observations.
5. Consideration of the revised consolidated working paper prepared by the bureau of the Expert Group at its third meeting.
6. Other business.
7. Recommendations and conclusions.

E. Summary of deliberations

23. The deliberations of the Expert Group at its fourth meeting were guided by the revised consolidated working paper prepared by the bureau of its third meeting (UNODC/CCPCJ/EG.6/2015/2)[5] pursuant to paragraph 12 of General Assembly resolution 69/192. The working paper was available in all official languages of the United Nations.

24. The working paper was structured on the basis of the nine thematic areas and specific rules identified for revision in the course of previous expert group meetings. For each of the rules considered for revision, it indicated: (a) relevant recommendations from previous meetings of the Expert Group, where applicable; (b) the original text of the rule and the revision proposed by the bureau; and (c) a brief rationale for the revision proposed by the bureau.

25. Overwhelming support and appreciation were expressed by all the participants in connection with the revised consolidated working paper prepared by the bureau of the third meeting of the Expert Group, with the invaluable assistance of the Secretariat. After extensive and in-depth discussions on the text proposed by the bureau for each of the rules identified for revision, consensus was reached on all rules, taking into account that in paragraph 10 of its resolution 69/192, the General Assembly had emphasized that the concern for a speedy process should not compromise the quality of the outcome. The importance of consulting provincial and other local prison administration officials on the content and practical application of the revised rules was also taken into account.

26. The agreement of the Expert Group on those rules specifically identified for revision within relevant thematic areas is reflected in the annex of the present report.

[5] For the members of the bureau of the third meeting of the Expert Group, see the report on that meeting (E/CN.15/2014/19 and Corr.1, para. 18).

IV. Adoption of the draft report and closure of the meeting

27. The Expert Group concluded its meeting with the adoption of its draft report, including its recommendations.

28. The Expert Group expressed its gratitude to the Government of South Africa for hosting, and providing the extrabudgetary funding for, the fourth meeting of the Expert Group.

Annex

Revised rules, by thematic area

Thematic areas (a) and (e). Respect for prisoners' inherent dignity and value as human beings; and protection and special needs of vulnerable groups deprived of their liberty, taking into consideration countries in difficult circumstances

Rule 6

Basic principles

6. (1) All prisoners shall be treated with the respect due to their inherent dignity and value as human beings. No prisoner shall be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification. The safety and security of prisoners, staff, service providers and visitors shall be ensured at all times.

(2) The following rules shall be applied impartially. There shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or any other status. The religious beliefs and moral precepts of prisoners shall be respected.

(3) In order for the principle of non-discrimination to be put into practice, prison administrations shall take account of the individual needs of prisoners, in particular the most vulnerable categories in prison settings. Measures to protect and promote the rights of prisoners with special needs are required and shall not be regarded as discriminatory.

(4) Imprisonment and other measures that result in cutting off persons from the outside world are afflictive by the very fact of taking from these persons the right of self-determination by depriving them of their liberty. Therefore, the prison system shall not, except as incidental to justifiable separation or the maintenance of discipline, aggravate the suffering inherent in such a situation. [*relocated; originally rule 57*]

(5) The purposes of a sentence of imprisonment or similar measures deprivative of a person's liberty are primarily to protect society against crime and to reduce recidivism. Those purposes can only be achieved if the period of imprisonment is used to ensure, so far as possible, the reintegration of such persons into society upon release so that they can lead a law-abiding and self-supporting life. [*relocated; originally rule 58*]

(6) To this end, prison administrations and competent authorities should offer education, vocational training and work, as well as other forms of assistance that are appropriate and available, including those of a remedial, moral, spiritual, social and health- and sports-based nature. All such programmes, activities and services should be delivered in line with the individual treatment needs of prisoners. [*relocated; originally rule 59*]

(7) The prison regime should seek to minimize any differences between prison life and life at liberty that tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings. [*relocated; originally rule 60, para. (1)*]

(8) Prison administrations shall make all reasonable accommodation and adjustments to ensure that prisoners with physical, mental or other disabilities have full and effective access to prison life on an equitable basis.

Thematic area (b). Medical and health services

Rule 22

Health-care services

22. (1) The provision of health care for prisoners is a State responsibility. Prisoners should enjoy the same standards of health care that are available in the community and should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status. Health-care services should be organized in close relationship to the general public health administration and in a way that ensures continuity of treatment and care, including for HIV, tuberculosis and other infectious diseases, as well as for drug dependence.

(2) Every prison shall have in place a health-care service tasked with evaluating, promoting, protecting and improving the physical and mental health of prisoners, paying particular attention to prisoners with special health-care needs or with health issues that hamper their rehabilitation. The service shall consist of an interdisciplinary team with sufficient qualified personnel acting in full clinical independence and shall encompass sufficient expertise in psychology and psychiatry. The services of a qualified dentist shall be available to every prisoner.

(3) The health-care service shall prepare and maintain accurate, up-to-date and confidential individual medical files on all prisoners, and all prisoners should be granted access to their files upon request. A prisoner may appoint a third party to access his or her medical file.

(4) Medical files shall be transferred to the health-care service of the receiving institution upon transfer of a prisoner and shall be subject to medical confidentiality.

(5) All prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals. Where a prison service has its own hospital facilities, they shall be adequately staffed and equipped to provide prisoners referred to them with appropriate treatment and care.

(6) Clinical decisions may only be taken by the responsible health-care professionals and may not be overruled or ignored by non-medical prison staff.

Rule 23

23. (1) In women's institutions, there shall be special accommodation for all necessary prenatal and postnatal care and treatment. Arrangements shall be made

wherever practicable for children to be born in a hospital outside the prison. If a child is born in prison, this fact shall not be mentioned in the birth certificate. [*no change*]

(2) A decision to allow a child to stay with his or her parent in prison shall be based on the best interests of the child concerned. Where children are allowed to remain in prison with a parent, provision shall be made for:

(a) Internal or external child-care facilities staffed by qualified persons, where the children shall be placed when they are not in the care of their parent;

(b) Child-specific health-care services, including health screenings upon admission and ongoing monitoring of their development by specialists.

(3) Children in prison with a parent shall never be treated as prisoners.

Rule 24

24. A physician or other qualified health-care professionals, whether or not they are required to report to the physician, shall see, talk with and examine every prisoner as soon as possible following his or her admission and thereafter as necessary. Particular attention shall be paid to:

(a) Identifying health-care needs and taking all necessary measures for treatment;

(b) Identifying any ill-treatment that arriving prisoners may have been subjected to prior to admission;

(c) Identifying any signs of psychological or other stress brought on by the fact of imprisonment, including, but not limited to, the risk of suicide or self-harm and withdrawal symptoms resulting from the use of drugs, medication or alcohol; and undertaking all appropriate individualized measures or treatment;

(d) In cases where prisoners are suspected of having contagious diseases, providing for the clinical isolation and adequate treatment of those prisoners during the infectious period;

(e) Determining the fitness of prisoners to work, to exercise and to participate in other activities, as appropriate.

Rule 25

25. (1) The physician or, where applicable, other qualified health-care professionals shall have daily access to all sick prisoners, all prisoners who complain of physical or mental health issues or injury and any prisoner to whom their attention is specially directed. All medical examinations shall be undertaken in full confidentiality.

(2) The relationship between the physician or other health-care professionals and the prisoners shall be governed by the same ethical and professional standards as those applicable to patients in the community, in particular:

(a) The duty of protecting prisoners' physical and mental health and the prevention and treatment of disease on the basis of clinical grounds only;

(b) Adherence to prisoners' autonomy with regard to their own health and informed consent in the doctor-patient relationship;

(c) The confidentiality of medical information, unless maintaining such confidentiality would result in a real and imminent threat to the patient or to others;

(d) An absolute prohibition on engaging, actively or passively, in acts that may constitute torture or other cruel, inhuman or degrading treatment or punishment, including medical or scientific experimentation that may be detrimental to a prisoner's health, such as the removal of a prisoner's cells, body tissues or organs.

(3) Without prejudice to paragraph 2 (d) of this rule, prisoners may be allowed, upon their free and informed consent and in accordance with applicable law, to participate in clinical trials and other health research accessible in the community, if these are expected to produce a direct and significant benefit to their health, and to donate cells, body tissues or organs to a relative.

(4) The physician shall report to the director whenever he or she considers that a prisoner's physical or mental health has been or will be injuriously affected by continued imprisonment or by any condition of imprisonment.

(5) If, in the course of examining a prisoner upon admission or providing medical care to the prisoner thereafter, health-care professionals become aware of any signs of torture and other cruel, inhuman or degrading treatment or punishment, they shall document and report such cases to the competent medical, administrative or judicial authority. Proper procedural safeguards shall be followed in order not to expose the prisoner or associated persons to foreseeable risk of harm.

Rule 26

26. (1) The physician or competent public health body shall regularly inspect and advise the director on:

(a) The quantity, quality, preparation and service of food;

(b) The hygiene and cleanliness of the institution and the prisoners;

(c) The sanitation, heating, lighting and ventilation of the prison;

(d) The suitability and cleanliness of the prisoners' clothing and bedding;

(e) The observance of the rules concerning physical education and sports, in cases where there are no technical personnel in charge of these activities.

(2) The prison director shall take into consideration the advice and reports provided in accordance with paragraph 1 of this rule and paragraph 4 of rule 25 and shall take immediate steps to give effect to the advice and the recommendations in the reports. If the advice or recommendations do not fall within the director's competence or if he or she does not concur with them, the director shall immediately submit to a higher authority his or her own report and the advice or recommendations of the physician or competent public health body.

Rule 33

33. (1) The use of chains, irons or other instruments of restraint that are inherently degrading or painful shall be prohibited. Other instruments of restraint shall only be used when authorized by law and in the following circumstances:

(a) As a precaution against escape during a transfer, provided that they are removed when the prisoner appears before a judicial or administrative authority;

(b) By order of the prison director if other methods of control fail, in order to prevent a prisoner from injuring himself or herself or others or from damaging property; in such instances, the director shall immediately alert the physician or other qualified health-care professionals and report to the higher administrative authority.

(2) When the imposition of instruments of restraint is authorized in accordance with paragraph 1 of this rule, the following principles shall apply:

(a) Instruments of restraint are to be imposed only when no lesser form of control would be effective to address the risks posed by unrestricted movement;

(b) The method of restraint shall be the least intrusive method that is necessary and reasonably available to control the prisoner's movement, based on the level and nature of the risks posed;

(c) Instruments of restraint shall only be imposed for the period required, and they are to be removed as soon as possible after the risks posed by unrestricted movement are no longer present.

(3) Instruments of restraint shall never be used on women during labour, during childbirth and immediately after childbirth.

(4) The prison administration should seek access to, and provide training in the use of, control techniques that would obviate the need for the imposition of instruments of restraint or reduce their intrusiveness.

Rule 52

[*to be deleted*]

Rule 62

[*to be deleted*]

Rule 71, paragraph (2)

71. (2) Sentenced prisoners shall have the opportunity to work and/or actively participate in their rehabilitation, subject to a determination of physical and mental fitness by a physician or other qualified health-care professionals.

(3) Prisoners shall not be held in slavery or servitude.

(4) No prisoner shall be required to work for the personal or private benefit of any prison staff.

Thematic area (c). Disciplinary action and punishment, including the role of medical staff, solitary confinement and reduction of diet

Rules 27 and 29 and rule 30, paragraph (1)

Restrictions, discipline and sanctions

27. (1) Discipline and order shall be maintained with no more restriction than is necessary to ensure safe custody, the secure operation of the prison and a well-ordered community life.

(2) The following shall always be subject to authorization by law or by the regulation of the competent administrative authority:

(a) Conduct constituting a disciplinary offence;

(b) The types and duration of sanctions that may be imposed;

(c) The authority competent to impose such sanctions;

(d) Any form of involuntary separation from the general prison population, such as solitary confinement, isolation, segregation, special care units or restricted housing, whether as a disciplinary sanction or for the maintenance of order and security, including promulgating policies and procedures governing the use and review of, admission to and release from any form of involuntary separation.

(3) Prison administrations are encouraged to use, to the extent possible, conflict prevention, mediation or any other alternative dispute resolution mechanism to prevent disciplinary offences or to resolve conflicts.

(4) For prisoners who are, or have been, separated, the prison administration shall take the necessary measures to alleviate the potential detrimental effects of their confinement on them and on their community following their release from prison.

27 bis. (1) No prisoner shall be sanctioned except in accordance with the terms of the law or regulation referred to in paragraph 2 of rule 27 and the principles of fairness and due process. A prisoner shall never be sanctioned twice for the same act or offence.

(2) Prison administrations shall ensure proportionality between disciplinary punishment and the offence for which it is established and shall keep a proper record of all disciplinary measures imposed.

(3) Before imposing disciplinary sanctions, prison administrations shall consider whether and how a prisoner's mental illness or developmental disability may have contributed to his or her conduct and the commitment of the offence or act underlying the disciplinary charge. Prison administrations shall not sanction any conduct of a prisoner that is considered to be the direct result of the prisoner's mental illness or intellectual disability.

Rules 31 and 32

31. (1) General living conditions addressed in these rules, including those related to light, ventilation, temperature, sanitation, nutrition, drinking water, access

to open air and physical exercise, personal hygiene, health care and adequate personal space, shall apply to all prisoners without exception.

(2) In no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhuman or degrading treatment or punishment. The following practices, in particular, shall be prohibited:

(a) Indefinite solitary confinement;

(b) Prolonged solitary confinement;

(c) Placement of a prisoner in a dark or constantly lit cell;

(d) Corporal punishment or the reduction of a prisoner's diet or drinking water;

(e) Collective punishment.

(3) Instruments of restraint shall never be applied as a sanction for disciplinary offences.

(4) Disciplinary sanctions or restrictive measures shall not include the prohibition of family contact. The means of family contact may only be restricted for a limited time period and as strictly required for the maintenance of security and order.

32. (1) For the purpose of these rules, solitary confinement shall refer to the confinement of prisoners for 22 hours or more a day without meaningful human contact. Prolonged solitary confinement shall refer to solitary confinement for a time period in excess of 15 consecutive days.

(2) Solitary confinement shall only be used in exceptional cases as a last resort, for as short a time as possible and subject to independent review, and only pursuant to the authorization by a competent authority. It shall not be imposed by virtue of a prisoner's sentence.

(3) The imposition of solitary confinement should be prohibited in the case of prisoners with mental or physical disabilities when their conditions would be exacerbated by such measures. The prohibition of the use of solitary confinement and similar measures in cases involving women and children, as referred to in other United Nations standards and norms in crime prevention and criminal justice,[6] continues to apply.

(4) Health-care personnel shall not have any role in the imposition of disciplinary sanctions or other restrictive measures. They shall, however, pay particular attention to the health of prisoners held under any form of involuntary separation, including by visiting such prisoners on a daily basis and providing prompt medical assistance and treatment at the request of such prisoners or prison staff.

[6] See rule 67 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (General Assembly resolution 45/113, annex); and rule 22 of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) (Assembly resolution 65/229, annex).

(5) Health-care personnel shall report to the director, without delay, any adverse effect of disciplinary sanctions or other restrictive measures on the physical or mental health of a prisoner subjected to such sanctions or measures and shall advise the director if they consider it necessary to terminate or alter them for physical or mental health reasons.

(6) Health-care personnel shall have the authority to review and recommend changes to the involuntary separation of a prisoner in order to ensure that such separation does not exacerbate the medical condition or mental or physical disability of the prisoner.

Rule 34 bis

Searches of prisoners and cells

34 bis. (1) The law and regulations governing searches of prisoners and cells shall be in accordance with obligations under international law and shall take into account international standards and norms, keeping in mind the need to ensure security in the prison. Searches shall be conducted in a manner that is respectful of the inherent human dignity and privacy of the individual being searched, as well as the principles of proportionality, legality and necessity.

(2) Searches shall not be used to harass, intimidate or unnecessarily intrude upon a prisoner's privacy. For the purpose of accountability, the prison administration shall keep appropriate records of searches, in particular strip searches, body cavity searches and searches of cells, as well as the reasons for the searches, the identities of those who conducted them and any results of the searches.

(3) Intrusive searches, including strip searches and body cavity searches, should be undertaken only if absolutely necessary. Prison administrations shall be encouraged to develop and use appropriate alternatives to intrusive searches. Intrusive searches shall be conducted in private and by trained staff of the same sex as the prisoner. Body cavity searches shall be conducted only by qualified health-care professionals other than those primarily responsible for the care of the prisoner or, at a minimum, by staff appropriately trained by a medical professional in standards of hygiene, health and safety.

(4) Prisoners shall have access to, or be allowed to keep in their possession without access by the prison administration, documents relating to their legal proceedings.

Thematic area (d). Investigation of all deaths in custody, as well as of any signs or allegations of torture or inhuman or degrading treatment or punishment of prisoners

Rule 7

Prisoner file management

7. (1) There shall be a standardized prisoner file management system in every place where persons are imprisoned. Such a system may be an electronic database of records or a registration book with numbered and signed pages. Procedures shall be

in place to ensure a secure audit trail and to prevent unauthorized access to or modification of any information contained in the system.

(2) No person shall be received in an institution without a valid commitment order. The following information shall be entered in the prisoner file management system upon admission of every prisoner:

(a) Precise information enabling determination of his or her unique identity, respecting his or her self-perceived gender;

(b) The reasons for his or her commitment and the authority therefor, including the date, time and place of arrest;

(c) The day and hour of his or her admission and release, as well as of any transfer;

(d) Any visible injuries and complaints about prior ill-treatment;

(e) An inventory of his or her personal property;

(f) The names of his or her family members, including, where applicable, his or her children and the children's ages, location and custody or guardianship status;

(g) Emergency contact details and information on the prisoner's next of kin.

(3) The following information shall be entered in the prisoner file management system in the course of imprisonment, where applicable:

(a) Information related to the judicial process, including dates of court hearings and legal representation;

(b) Initial assessment and classification reports;

(c) Information related to behaviour and discipline;

(d) Requests and complaints, including allegations of torture or other cruel, inhuman or degrading treatment or punishment, unless they are of a confidential nature;

(e) Information on the imposition of disciplinary measures;

(f) Information on the circumstances and causes of any injuries or death and, in the case of the latter, the destination of the remains.

(4) All records referred to in this rule shall be kept confidential and made available only to those whose professional responsibilities require access to such records. Every prisoner shall be granted access to the records pertaining to him or her, subject to redactions authorized under domestic legislation, and shall be entitled to receive an official copy of such records upon his or her release.

(5) Prisoner file management systems shall also be used to generate reliable data about trends relating to and characteristics of the prison population, including occupancy rates, in order to create a basis for evidence-based decision-making.

Rule 44

Notifications

44. (1) Every prisoner shall have the right, and shall be given the ability and means, to inform immediately his or her family, or any other person designated as a contact person, about his or her imprisonment, about his or her transfer to another institution and about any serious illness or injury. The sharing of prisoners' personal information shall be subject to domestic legislation.

(2) In the event of a prisoner's death, the prison director shall at once inform the prisoner's next of kin or emergency contact. Individuals designated by a prisoner to receive his or her health information shall be notified by the director of the prisoner's serious illness, injury or transfer to a health institution. The explicit request of a prisoner not to have his or her spouse or nearest relative notified in the event of illness or injury shall be respected.

(3) The prison administration shall inform a prisoner at once of the serious illness or death of a near relative or any significant other. Whenever circumstances allow, the prisoner should be authorized to go, either under escort or alone, to the bedside of a near relative or significant other who is critically ill or to attend the funeral of a near relative or significant other.

Rule 44 bis

Investigations

44 bis. (1) Notwithstanding the initiation of an internal investigation, the prison director shall report, without delay, any custodial death, disappearance or serious injury to a judicial or other competent authority that is independent of the prison administration and mandated to conduct prompt, impartial and effective investigations into the circumstances and causes of such cases. The prison administration shall fully cooperate with that authority and ensure that all evidence is preserved.

(2) The obligation in paragraph 1 of this rule shall equally apply whenever there are reasonable grounds to believe that an act of torture or other cruel, inhuman or degrading treatment or punishment has been committed in prison, irrespective of whether a formal complaint has been received.

(3) Whenever there are reasonable grounds to believe that an act referred to in paragraph 2 of this rule has been committed, steps shall be taken immediately to ensure that all potentially implicated persons have no involvement in the investigation and no contact with the witnesses, the victim or the victim's family.

(4) The prison administration shall treat the body of a deceased prisoner with respect and dignity. The body of a deceased prisoner should be returned to his or her next of kin as soon as reasonably possible, at the latest upon completion of the investigation. The prison administration shall facilitate a culturally appropriate funeral if there is no other responsible party willing or able to do so and shall keep a full record of the matter.

Thematic area (f). The right of access to legal representation

Rule 35

35. (1) Upon admission, every prisoner shall be promptly provided with written information about:

(a) The prison law and applicable prison regulations;

(b) His or her rights, including authorized methods of seeking information, access to legal advice, including through legal aid schemes, and procedures for making requests or complaints;

(c) His or her obligations, including applicable disciplinary measures;

(d) All other matters necessary to enable the prisoner to adapt himself or herself to the life of the institution.

(2) The information referred to in paragraph 1 of this rule shall be available in the most commonly used languages, in accordance with the needs of the prison population. If a prisoner does not understand any of those languages, interpretation assistance should be provided.

(3) If a prisoner is illiterate, the information shall be conveyed to him or her orally. Prisoners with disabilities should be provided with information in a manner appropriate to their needs.

(4) The prison administration shall prominently display summaries of the information in common areas of the institution.

Rule 30

30. (1) Any allegation of a disciplinary offence by a prisoner shall be reported promptly to the competent authority, which shall investigate it without undue delay.

(2) Prisoners shall be informed, without delay and in a language that they understand, of the nature of the accusations against them and shall be given adequate time and facilities for the preparation of their defence.

(3) Prisoners shall be allowed to defend themselves in person, or through legal assistance when the interests of justice so require, particularly in cases involving serious disciplinary charges. If the prisoners do not understand or speak the language used at a disciplinary hearing, they shall be assisted by a competent interpreter free of charge.

(4) Prisoners shall have an opportunity to seek judicial review of disciplinary sanctions imposed on them.

(5) In the event that a breach of discipline is prosecuted as a crime, prisoners shall be entitled to all due process guarantees applicable to criminal proceedings, including unimpeded access to a legal adviser.

Rules 37, 37 bis and 37 ter

37. (1) Prisoners shall be allowed, under necessary supervision, to communicate with their family and friends at regular intervals:

(a) By corresponding in writing and using, where available, telecommunication, electronic, digital and other means; and

(b) By receiving visits.

(2) Where conjugal visits are allowed, this right shall be applied without discrimination, and women prisoners shall be able to exercise this right on an equal basis with men. Procedures shall be in place and premises shall be made available to ensure fair and equal access with due regard to safety and dignity.

(3) Prisoners shall be allocated, to the extent possible, to prisons close to their homes or their places of social rehabilitation.

37 bis. (1) Admission of visitors to the prison facility is contingent upon the visitors' consent to being searched. The visitor may withdraw his or her consent at any time, in which case the prison administration may refuse access.

(2) Search and entry procedures for visitors shall not be degrading and shall be governed by principles at least as protective as those outlined in paragraphs 1 to 3 of rule 34 bis. Body cavity searches should be avoided and should not be applied to children.

37 ter. (1) Prisoners shall be provided with adequate opportunity, time and facilities to be visited by and to communicate and consult with a legal adviser of their own choice or a legal aid provider, without delay, interception or censorship and in full confidentiality, on any legal matter, in conformity with applicable domestic law. Consultations may be within sight, but not within hearing, of prison staff. In cases in which prisoners do not speak the local language, the prison administration shall facilitate access to the services of an independent competent interpreter.

(2) Prisoners should have access to effective legal aid.

Rule 93

93. (1) Every untried prisoner has the right to be promptly informed about the reasons for his or her detention and about any charges against him or her.

(2) If an untried prisoner does not have a legal adviser of his or her own choice, he or she shall be entitled to have a legal adviser assigned to him or her by a judicial or other authority in all cases where the interests of justice so require and without payment by the untried prisoner if he or she does not have sufficient means to pay. Denial of access to a legal adviser or legal aid provider shall be subject to independent review without delay.

(3) The entitlements and modalities governing the access of an untried prisoner to his or her legal adviser or legal aid provider for the purpose of his or her defence shall be governed by the same principles as outlined in rule 37 ter.

(4) An untried prisoner shall, upon request, be provided with writing material for the preparation of documents related to his or her defence, including confidential instructions for his or her legal adviser or legal aid provider.

Thematic area (g). Complaints and independent inspection

Rule 36

36. (1) Every prisoner shall have the opportunity each day to make requests or complaints to the prison director or the prison staff member authorized to represent him or her.

(2) It shall be possible to make requests or complaints to the inspector of prisons during his or her inspections. The prisoner shall have the opportunity to talk to the inspector or any other inspecting officer freely and in full confidentiality, without the director or other members of the staff being present.

(3) Every prisoner shall be allowed to make a request or complaint regarding his or her treatment, without censorship as to substance, to the central prison administration and to the judicial or other competent authorities, including those vested with reviewing or remedial power.

(4) The rights under paragraphs 1 to 3 of this rule shall extend to the legal adviser of the prisoner. In those cases where neither the prisoner nor his or her legal adviser has the possibility to exercise such rights, a member of the prisoner's family or any other person who has knowledge of the case may do so.

(5) Every request or complaint shall be promptly dealt with and replied to without delay. If the request or complaint is rejected, or in the event of undue delay, the complainant shall be entitled to bring it before a judicial or other authority.

(6) Safeguards shall be in place to ensure that prisoners can make requests or complaints safely and, if so requested by the complainant, in a confidential manner. A prisoner or other person mentioned in paragraph 4 of this rule must not be exposed to any risk of retaliation, intimidation or other negative consequences as a result of having submitted a request or complaint.

(7) Allegations of torture or other cruel, inhuman or degrading treatment or punishment of prisoners shall be dealt with immediately and shall result in a prompt and impartial investigation conducted by an independent national authority in accordance with paragraphs 1 and 2 of rule 44 bis.

Rule 55

Internal and external inspections

55. (1) There shall be a twofold system for regular inspections of prisons and penal services:

(a) Internal or administrative inspections conducted by the central prison administration;

(b) External inspections conducted by a body independent of the prison administration, which may include competent international or regional bodies.

(2) In both cases, the objective of the inspections shall be to ensure that prisons are managed in accordance with existing laws, regulations, policies and procedures, with a view to bringing about the objectives of penal and correctional services, and that the rights of prisoners are protected.

(3) Inspectors shall have the authority:

(a) To access all information on the number of prisoners and places and locations of detention, as well as all information relevant to the treatment of prisoners, including their records and conditions of detention;

(b) To freely choose which prisons to visit, including by making unannounced visits at their own initiative, and which prisoners to interview;

(c) To conduct private and fully confidential interviews with prisoners and prison staff in the course of their visits;

(d) To make recommendations to the prison administration and other competent authorities.

(4) External inspection teams shall be composed of qualified and experienced inspectors appointed by a competent authority and shall encompass health-care professionals. Due regard shall be given to balanced gender representation.

(5) Every inspection shall be followed by a written report to be submitted to the competent authority. Due consideration shall be given to making the reports of external inspections publicly available, excluding any personal data on prisoners unless they have given their explicit consent.

(6) The prison administration or other competent authorities, as appropriate, shall indicate, within a reasonable time, whether it will implement the recommendations resulting from the external inspection.

Thematic area (h). The replacement of outdated terminology

Preliminary observation 5

5. (1) The rules do not seek to regulate the management of institutions set aside for young persons, such as juvenile detention facilities or correctional schools, but in general part I would be equally applicable in such institutions.

Rule 82

B. Prisoners with mental disabilities and/or health conditions

82. (1) Persons who are found to be not criminally responsible, or who are later diagnosed with severe mental disabilities and/or health conditions, for whom staying in prison would mean an exacerbation of their condition, shall not be detained in prisons, and arrangements shall be made to transfer them to mental health facilities as soon as possible.

(2) If necessary, other prisoners with mental disabilities and/or health conditions can be observed and treated in specialized facilities under the supervision of qualified health-care professionals.

(3) The health service shall provide for the mental health treatment of all other prisoners who are in need of such treatment.

Various other rules

[*To replace "he" with "he or she" and "his" with "his or her" throughout the Standard Minimum Rules if not already addressed in the revisions proposed under other thematic areas.*]

Thematic area (i). Training of relevant staff to implement the Standard Minimum Rules

Rule 47

47. (1) All prison staff shall possess an adequate standard of education and shall be given the ability and means to carry out their duties in a professional manner.

(2) Before entering on duty, all prison staff shall be provided with training tailored to their general and specific duties, which shall be reflective of contemporary evidence-based best practice in penal sciences. Only those candidates who successfully pass the theoretical and practical tests at the end of such training shall be allowed to enter the prison service.

(3) The prison administration shall ensure the continuous provision of in-service training courses with a view to maintaining and improving the knowledge and professional capacity of its personnel, after entering on duty and during their career.

(4) Training referred to in paragraph 2 of this rule shall include, at a minimum, training on:

(a) Relevant national legislation, regulations and policies, as well as applicable international and regional instruments, the provisions of which must guide their work and interactions of prison staff with inmates;

(b) Rights and duties of prison staff in the exercise of their functions, including respecting the human dignity of all prisoners and the prohibition of certain conduct, in particular torture and other cruel, inhuman or degrading treatment or punishment;

(c) Security and safety, including the concept of dynamic security, the use of force and instruments of restraint, and the management of violent offenders, with due consideration of preventive and defusing techniques, such as negotiation and mediation;

(d) First aid, the psychosocial needs of prisoners and the corresponding dynamics in prison settings, as well as social care and assistance, including early detection of mental health issues.

(5) Prison staff who are in charge of working with certain categories of prisoners, or who are assigned other specialized functions, shall receive training that has a corresponding focus.